

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

PERLA CABALLERO-SANCHEZ,
Individually and as Next Friend to
RAFAEL CORRAL, A Minor,

Plaintiffs,

V.

TENNESSEE STEEL HAULERS, INC.,
ALABAMA CARRIERS, INC., DASEKE,
INC., and JOHNNY M. FOX,

Defendants.

Cause No. 02:20-CV-212-Z

AGREED MOTION TO REMAND AND BRIEF IN SUPPORT

TO THE HONORABLE JUDGE OF SAID COURT:

Come now Defendants TENNESSEE STEEL HAULERS, INC., ALABAMA CARRIERS, INC., and JOHNNY M. FOX, and Plaintiffs PERLA CABALLERO-SANCHEZ, Individually and as Next Friend to RAFAEL CORRAL, a minor and file this Agreed Motion to Remand and Brief in Support under 28 USC § 1447(c).

I. INTRODUCTION

1. Plaintiff is PERLA CABALLERO-SANCHEZ, Individually and as Next Friend of RAFAEL CORRAL, a Minor (“Plaintiff”). Defendants are TENNESSEE STEEL HAULERS, INC., ALABAMA CARRIERS, INC., DASEKE, INC., and JOHNNY M. FOX (“Defendants”). On July 15, 2020, Plaintiff filed her Original Petition against Defendants TENNESSEE STEEL HAULERS, INC., ALABAMA CARRIERS, INC., and JOHNNY M. FOX asserting claims of negligence, negligence per se, *respondeat superior*, and negligent entrustment in the 69th Judicial District Court of Moore County, Texas (State Court) Cause Number 20-58.

2. The green card returned to the clerk following service by certified mail on Tennessee Steel Haulers, Inc. (“Tennessee”) does not reflect the date of delivery. On information and belief, Tennessee first received service and a copy of Plaintiff’s Original Petition on August 17, 2020.

3. Similarly, the green card returned to the clerk following service by certified mail on Alabama Carriers, Inc. (“Alabama”) does not reflect the date of delivery. On information and belief, Alabama first received service and a copy of Plaintiff’s Original Petition on August 17, 2020.

4. Defendant Johnny M. Fox (“Fox”) was served by and through his counsel of record on September 18, 2020.

5. On September 16, Defendants Alabama and Tennessee filed a Notice of Removal based on diversity jurisdiction.

6. On September 25, 2020, Plaintiff amended her Complaint to add Daseke, Inc. as a defendant, asserting claims of alter-ego liability. To date, Daseke, Inc. has not been served with Plaintiff’s First Amended Complaint.

II.

ARGUMENT

7. Plaintiff PERLA CABALLERO-SANCHEZ is an individual that is a citizen of the State of Texas. Plaintiff PERLA CABALLERO-SANCHEZ is the representative of Rafael Corral, a minor, who is a citizen of the State of Texas.

8. Defendant Tennessee is a foreign corporation with its principal place of business in Nashville, Tennessee. Defendant Alabama is also a foreign corporation with its principal place of business in Birmingham, Alabama. Defendant Fox is a nonresident of Texas and a resident of the State of Alabama.

9. Until Plaintiff filed her First Amended Complaint, there was complete diversity among the parties.

10. Plaintiff has now added Daseke, Inc., a Delaware Corporation who maintains a principal place of business in Addison, Texas. There is no longer a complete diversity among the parties.

11. A court may remand a case on the basis of any procedural defect identified in a motion for remand filed within 30 days after the filing of the Notice of Removal under 28 USC § 1446(a). See 28 USC § 1447(c).

12. The court should remand this case back to state court because the parties are no longer completely diverse.

III. **CONCLUSION**

13. For the reasons stated above, Defendants and Plaintiffs ask the Court to grant this motion and remand this suit to the state court where it was originally filed.

Respectfully submitted,

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By _____
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